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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Francine Gibson,

10 Plaintiff,

11 v.

12 Cartwright Elementary School District,

13 Defendant.  
14

No. CV-23-01012-PHX-MTL

**ORDER**

15 **I.**

16 Plaintiff was employed as a public-school teacher with the Cartwright Elementary  
17 School District (“CESD”). It appears that, after the 2022-2023 academic year, her contract  
18 was not renewed. She alleges that she filed complaints with the Equal Employment  
19 Opportunity Commission and the Arizona Attorney General’s Civil Rights Division. These  
20 agencies declined to pursue charges but issued a right-to-sue letter. Plaintiff now sues  
21 CESD alleging violations of the United States Constitution’s First Amendment right to  
22 freedom of speech and expression, the Fourth Amendment’s right to privacy, a Fourteenth  
23 Amendment due process violation, and a violation of the equal protection clause. Plaintiff  
24 asserts her federal constitutional violations under 28 U.S.C. § 1983. Plaintiff also asserts a  
25 federal claim for relief under 28 U.S.C. § 1331. Finally, Plaintiff asserts a state-law claim  
26 for teacher abuse under A.R.S. § 15-507.

27 CESD has moved to dismiss. (Doc. 8) The Court will grant the Motion.

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1 **II.**

2 Federal courts are courts of limited jurisdiction. In each case, the Court is under an  
3 independent duty to evaluate jurisdiction. For the reasons explained below, the Court finds  
4 that CESD's first objection based on insufficient service of process is well-taken. Plaintiff's  
5 failure to effect service is jurisdictional and mandates dismissal.

6 CESD is the only defendant named in this case, and Plaintiff must serve process on  
7 all members of the school district governing board. Rule 4(j)(2), Fed. R. Civ. P., states that

8 A state, a municipal corporation, or any other state-created  
9 governmental organization that is subject to suit must be served  
10 by:

11 (A) delivering a copy of the summons and of the complaint to  
12 its chief executive officer; or

13 (B) serving a copy of each in the manner prescribed by that  
14 state's law for serving a summons or like process on such a  
defendant.

15 In the context of a multi-member school district governing board, Arizona courts  
16 have interpreted the phrase "chief executive officer" to mean every member of the district's  
17 governing board. *Batty v. Glendale Union High Sch. Dist. No. 205*, 212 P.3d 930, 933  
18 (Ariz. Ct. App. 2009). Thus, each member of the school district must be served with  
19 process.

20 Plaintiff did not serve any of the governing board members. She instead served the  
21 human resources director and, later, the executive assistant to the superintendent. Nothing  
22 in the record suggests that the human resources director was allowed to accept service. Nor  
23 is there evidence that the executive assistant could accept service or that the superintendent  
24 exercised the functions of chief executive officer. *See id.* at 934.

25 In an action against a school district, this Court held before that a plaintiff's failure  
26 to serve the governing board members constituted a jurisdictional defect. *Atkins v.*  
27 *Creighton Elementary Sch. Dist.*, No. CV-11-729-PHX-SRB, 2012 WL 12893446, at \*4  
28 (D. Ariz. June 26, 2012). The same is true here. Plaintiff's lack of service of process means

1 that this Court is without jurisdiction to consider her case. The Court must grant the Motion  
2 to Dismiss without evaluating any of CESD's remaining arguments.

3 **III.**

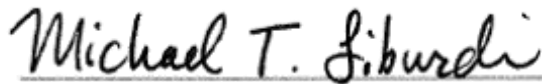
4 Accordingly,

5 **IT IS ORDERED:**

6 1. Defendant's Motion to Dismiss (Doc. 8) is **granted without prejudice** for  
7 insufficient service of process.

8 2. The Clerk of Court is instructed to close this case. Judgment shall not be  
9 entered at this time because the order of dismissal is without prejudice.

10 Dated this 16th day of August 2023.

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14 Michael T. Liburdi  
15 United States District Judge  
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